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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,748	09/18/2003	William T. Wilkinson	WIL-118US	6982
31344	7590	10/08/2004	EXAMINER	
RATNERPRESTIA P.O. BOX 1596 WILMINGTON, DE 19899			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,748

Applicant(s)

WILKINSON, WILLIAM T.

Examiner

Fredrick C Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 12-19, 21, 24-30, 36, and 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,279,310 to Hsien.

Claim 1, Hsien discloses a system for adjustably positioning at least two body zones of a person relative to a base surface on which the person is resting, the system comprising at least two adjustable sections (10,20,30), each adjustable section having a non-remote, individually adjustable mechanism (17,25,33) for adjusting the elevation of the section.

Claim 2, wherein each adjustable section is pneumatic.

Claim 3, wherein each of the at least two adjustable sections (17,25,33) comprises an adjustable member positioned between an upper non-adjustable cushioned element and a lower non-adjustable cushioned element.

Claim 4, wherein the adjustable member comprises an inflatable bladder.

Claim 5, wherein the non-remote, individually adjustable mechanism comprises a valve mounted on an outer surface of the inflatable bladder (fig. 3).

Claim 12, wherein one of the at least two body zones comprises an upper body zone 20 and another of the at least two body zones is head/neck body zone 10.

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Claim 13, wherein each of the at least two sections comprises an individual module.

Claim 14, wherein each of the at least two sections comprises an adjustable pillow or a section thereof.

Claim 15, comprising at least one pillow having two or more independently adjustable sections.

Claim 16, comprising a plurality of pillows, one pillow for each body zone.

Claim 17, wherein the system provides customized spinal alignment for the person.

Claim 18, wherein each section is adjustable to provide an elevation relative to the base surface sufficient to position the respective body zone in a physiologically neutral position.

Claim 19, wherein the physiologically neutral position is a position that optimally minimizes pressure points and musculoskeletal stress.

Claim 21, wherein each of the at least two sections are attachable to one another (col. 2 lines 34-38).

Claim 24, wherein each pillow is adapted to be attachable to and detachable from at least one other pillow in the system (col. 2 lines 34-38).

Claim 25, with regards to the Applicant's recitation "the system is adapted to support the at least two body zones of the person while the person is resting on his or her side" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from

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a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 26, wherein the system is adapted to support the at least two body zones of the person while the person is resting on his or her back.

Claim 27, wherein the non-remote, individually adjustable mechanism comprises one or more inserts (17,25,33).

Claim 28, comprising a plurality of inserts 25 having an equal thickness.

Claim 29, comprising at least two inserts (17,25) having different thickness.

Claim 30, wherein the inserts comprise a material of air-inflated members.

Claim 36, Hsien discloses a system for adjustably positioning a head/neck body zone, hip/lower back body zone of a person, the system

comprising:

a first inflatable pillow (10,17) for supporting the head/neck body zone;

a second inflatable pillow (20,25); and

a third inflatable pillow (30,33); and each pillow comprising an inflatable bladder (17,25,33) positioned between an upper non-adjustable cushioned element and a lower non-adjustable cushioned element. With regards to the Applicant's recitation "for adjustably positioning an upper arm/shoulder body zone and for supporting a top arm in the upper arm body zone" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

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Claim 43, Hsien discloses a system for positioning at least two body zones of a person relative to a base surface on which the person is resting, the system comprising at least two discrete non-adjustable supports (10,20), each support having a different thickness.

Claim 44, wherein one of the at least two body zones comprises an upper body zone 20 and another of the at least two body zones is a head/neck body zone 10. With regards to Applicant's recitation for support the upper arm it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 45, wherein the system comprises a first discrete support for supporting the upper body zone, a second discrete support for supporting the head/neck body zone, and a third discrete support 30. With regards to Applicant's recitation "for support the upper arm" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 42 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,189,168 to Graebe.

Claim 42, Graebe disclose a pillowcase 12, the pillowcase comprising a fabric that is moisture-wicking, heat-normalizing, or a combination thereof (col. 4 lines 39-41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-11, 20, 22-23, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,279,310 to Hsien in view of U.S. Pat. No. 6,189,168 to Graebe.

Claims 6 and 34, Hsien discloses all of the Applicant's claimed limitations except for having a length of extension tubing. Graebe discloses a support having a length of extension tubing 72 attached to a valve 76, the extension tubing adapted to interface with a pump 74. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a length of extension tubing as taught by Graebe in order to supply air pressure to the inflatable bladders of Hsien.

Claims 7, 31 and 35, Hsien discloses all of the Applicant's claimed limitations except for having an outer enclosure comprising a pocket and opening. Graebe discloses a support having an outer enclosure 12 comprising a pocket having an opening 24, the outer enclosure adapted to surround a upper non-adjustable cushioned element 28, the lower non-adjustable cushioned element 28, and the inflatable bladder. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ an outer enclosure as taught by Graebe in order to provide a maximum comfort for the user.

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Claim 8, wherein the outer enclosure 12, the upper non-adjustable cushioned element 28, and the lower non-adjustable cushioned element comprise an integral unit (Graebe).

Claim 9, wherein the integral unit comprises a fabric comprising non-adjustable cushioned material 28 bonded between the outer enclosure and an inner lining, the fabric formed into a pocket to receive the inflatable bladder (Graebe).

Claim 10, further comprising a fastener 38 for closing the opening.

Claim 11, wherein fastener for closing the opening is a zipper.

Claim 20, Hsien discloses all of the Applicant's claimed limitations except for having a hand pump. Graebe discloses a support having a hand pump 74. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a hand pump as taught by Graebe in order to supply air pressure to the inflatable bladders of Hsien.

Claims 22-23, Hsien discloses all of the Applicant's claimed limitations except for having an outer casing comprising a fabric. Graebe discloses a support having at least one outer casing 12 for covering the system or a portion thereof and providing a contact surface for contact with the person, the casing comprising a fabric that is moisture-wicking, heat-normalizing, or a combination thereof (col. 4 lines 39-41). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ an outer enclosure as taught by Graebe in order to provide a maximum comfort for the user.

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Claim 32, further comprises an opening 14 in a cushioned casing. With regards to the Applicant recitation "an opening into which the inserts are adapted to be inserted" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 33, wherein the inserts comprise members inherently having a relatively hard outer surface.

Claims 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,901,384 to Eary in view of U.S. Pat. No. 5,279,310 to Hsien.

Claim 37, Eary discloses a method of promoting sound rest in a person resting on his or her side on a base surface, the method comprising the steps of:

(a) providing a first support 12 for positioning a head/neck body zone of the person in an elevated first position relative to the base surface;

(b) providing an second support (13a,13b) for positioning an arm body zone of the person in an elevated second position relative to the base surface;

(c) providing a third support (15) for positioning a leg body zone of the person in an elevated third position relative to the base surface. Eary fails to disclose a mechanism for adjusting the elevation of each section. Hsien discloses a support having a plurality of adjusting mechanisms (17,25,33). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a plurality of adjusting mechanisms as taught by Hsien in order to adjust the support of Eary.

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Claim 38, wherein the first support, the second support, and the third support each comprise inflatable pillows (17,25,33), and inflating or deflating the pillows to attain the customized positions (Hsien).

Claim 39, comprising adjusting the first support, the second support, and the third support to accommodate the person resting on his or her side, placing the first support underneath a head/neck of the person, placing the second support alongside torso of the person to elevate a top arm of the person, and placing third support between an top leg and a bottom leg of the person (col. 3 lines 55-60).

Claim 40, comprising adjusting the first support, the second support, and the third support to accommodate the person resting on his or her back, placing the first support beneath a head/neck of the person, placing the second support alongside a torso or atop a chest or belly of the person to elevate one or both arms of the person, and placing the third support underneath one or both knees of the person.

Claims 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,901,384 to Eary in view of U.S. Pat. No. 5,279,310 to Hsien in view of U.S. Pat. No. 5,987,675 to Kim.

Claim 41, Eary discloses all of the Applicant' claimed limitations except for having inserts. Kim discloses a support having inserts 82. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ an insert as taught by Kim in order to provide extra support.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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PRIMARY EXAMINER
ART UNIT 358